

EO Technical Assistant

17 MAR 1982

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

According to your Articles of Association, you are organized for the purpose of providing for your members recreational facilities such as dining, dancing, party facilities, and a place to have alcoholic beverages served under the pool system for personal consumption only.

Your only activity is the operation of a club for the use of members and guests. The club serves food, alcoholic beverages, and provides a place for dancing and meeting. Membership dues are \$ per year and the only requirements for membership are that the prospective member be of good moral character and at least 18 years of age.

For the period ending , receipts were from dues in the amount of \$ and sales (presumably primarily beverage sales) of \$. Expenditures were as follows: cost of sales \$, rent \$, and supplies, taxes, legal, and professional expenses of \$.

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable,...or educational purposes,...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1 of the regulations provides, in part, as follows:

"(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer

(b)(1)(i) An organization is organized exclusively for one or more exempt purposes only if its articles of organization (referred to in this section as its "articles") as defined in subparagraph (2) of this paragraph:

(a) Limit the purposes of such organization to one or more exempt purposes; and

(b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes."

(b)(4) Distribution of assets on dissolution. An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders."

"(c)(1) Primary activities. An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Since your Articles of Association do not limit your purposes to one or more of the exempt purposes specified in section 501(c)(3), do not contain a proper dissolution provision to dedicate your assets for charitable purposes, and expressly empower you to engage in activities which in themselves are not in furtherance of charitable purposes, you fail to meet the organizational requirements of section 501(c)(3).

In addition, your only activity of operating a club for members serves no charitable purpose. Since you are not organized and operated exclusively for charitable purposes, you do not qualify for tax-exemption under section 501(c)(3) and exemption is denied.

Based on the information you have furnished, it is unlikely you would qualify for tax-exemption under any other section of the Code. You should file Federal income tax returns.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely yours,

District Director

Enclosures:
Publication 892
Form 6018